



Andrew M. Bateman
Deputy Chief Counsel for ORS

March 29, 2019

VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

Re: Application of Duke Energy Progress, LLC for Adjustments in Electric Rate Schedules
and Tariffs and Request for an Accounting Order
Docket No. 2018-318-E

Dear Ms. Boyd:

On March 26, 2019, Duke Energy Progress, LLC ("DEP") filed a letter notifying the Commission and parties to the above referenced docket that "the Company does not contest the Base Facilities Charge... proposed by [the South Carolina Office of Regulatory Staff ("ORS")] Witness Seaman-Huynh's surrebuttal testimony as follows: BFCs of \$11.78 for residential customers, \$12.34 for SGS customers, and \$11.31 for SGS Constant Load customers, and to put the remaining revenue requirement ultimately determined by the Commission in the variable component of such rates."

Please allow this letter to clarify ORS witness Seaman-Huynh sponsors a rate design methodology that, when applied to the adjustments proposed by ORS, results in the rates outlined by DEP.¹ ORS does not necessarily recommend a specific rate as represented by DEP. If the Commission adopts positions other than those proposed by ORS, the rates set forth above can change.

Additionally, to the extent the remaining revenue requirement is allocated to variable/volumetric component of rates, the increase could exceed the variable/volumetric rates DEP noticed

¹ See ORS witness Seaman-Huynh's Pre-filed Direct Testimony pp. 10,11, ll. 1-17, and p. 12, ll. 6-15.

in its Application. Rates put into effect by DEP must not violate the due process rights of its customers and must not result in a taking of property without due notice.²

It is ORS's position that whether the Company may be permitted to charge volumetric rates in excess of those noticed in its Application may raise a serious due process issue. In its capacity as representing the public interest, ORS believes it is necessary to clarify its position and identify this potential issue.

Sincerely,



Andrew M. Bateman

cc: All Parties of Record (via E-Mail)
Joseph Melchers, Esquire (via E-Mail)

² According to S.C. Const. Art. 1, § 22, “[n]o person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review.” Additionally, the fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. (*See Kurschner v. City of Camden Planning Com’n* 376 S.C. 165, 656 S.E.2d 346 (2008)). *See also* S.C. Code Ann. § 1-23-320 (Supp. 2018).